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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,641	04/02/2004	Curtis G. Neason	066243-0236 (141210)	2877

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GE MEDICAL SYSTEM
C/O FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

EXAMINER

WEATHERBY, ELLSWORTH

ART UNIT	PAPER NUMBER
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3768

MAIL DATE	DELIVERY MODE
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04/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/816,641	Applicant(s) NEASON, CURTIS G.	
	Examiner ELLSWORTH WEATHERBY	Art Unit 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/21/2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-17 and 25-26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5-9, 10-12, 14-17, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frigstad et al. (Pub. No.: 2005/0010098) in view of Dupree et al. (USPN 6,192,266).

5. Frigstad et al. teaches an internal medical imaging electrophysiology data processing system that is configured to be coupled to a network and to receive data

used to produce an image of the heart over a network [0017-0024; 0033-0051]. Frigstad also teaches that in identifying an abnormality, additional information may be needed from the HC provider or from a prior scan that is stored on a managed database [0055; 0057; 0058-0063].

6. Frigstad et al. teaches varying the diagnostic functionality and providing several capabilities including probe based imaging [0024-0033]. However, Frigstad et al. does not expressly teach that the one or more probes are configured to be positioned inside a heart of a patient, where at least one of the probes senses electrical information and position information, the positioning information pertaining to the position of at least one of the one or more probes relative to a three dimensional image of the heart.

7. In a similar field of endeavor, Dupree et al. teaches an intracardiac position sensing and/or electrical activity mapping probe (abstract; col. 3, l. 59- col. 4, l. 25). Dupree et al. also teaches marking the navigation data, such that the physician comment and the respective position of the probe is registered relative to the image of the heart (col. 24, l. 30-col. 26, l. 65).

8. Because Frigstad et al. teaches varying the diagnostic functionality and providing several capabilities including probe based imaging [0024-0033] it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Frigstad et al. in view of Dupree et al. The motivation to modify Frigstad et al. in view of Dupree et al. would have been to facilitate remote diagnostics from catheter or internal studies.

9. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frigstad et al. '098 in view of Dupree et al. '266 as applied to claims 1 and 10 above, and further in view of Joao (USPN 6,283,461).

10. Frigstad et al. in view of Dupree et al. teaches all the limitations of the claimed invention except for expressly teaching that the network comprises a wireless network.

11. In a similar field of endeavor, Joao teaches a method for providing healthcare information, the apparatus comprising a processor for processing at least one of symptom information and condition information corresponding to a patient, in conjunction with at least one of healthcare information, healthcare theories, healthcare principles, and healthcare research, wherein the processor generates a diagnostic report, and further wherein the diagnostic report contains information regarding at least one of a diagnosis and a possible diagnosis for the at least one of symptom information and condition information. The improvement includes the processor generating a diagnostic report containing a list of possible diagnoses, a transmitter for transmitting the diagnostic report to at least one of a computer and a communication device associated with a healthcare provider, and a receiver for receiving a final diagnosis from the list of possible diagnoses, wherein the final diagnosis is received from the at least one of a computer and a communication device associated with the healthcare provider (abstract). Joao also teaches that The central processing computer(s), the provider computer(s), the payer computers(s), the patient computer(s), and the intermediary computer(s), can communicate with one another, and/or be linked to one another, over

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a communication network, a telecommunication network, a telephone network, a line-connected network, and/or a wireless communication network (col. 3, l. 46- col. 4, l. 5).

12. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Frigstad et al. in view of Dupree et al. with Joao. The motivation to modify Frigstad et al. in view of Dupree et al. with Joao would have been to facilitate remote diagnostics using any well know data transmission means.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELLSWORTH WEATHERBY whose telephone number is (571) 272-2248. The examiner can normally be reached on M-F 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian L Casler/
Supervisory Patent Examiner, Art
Unit 3737

EW